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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/505,509	02/17/2000	Manish Gupta	YOR9-2000-0004	6746
30743	7590	11/04/2005	EXAMINER	
WHITHAM, CURTIS & CHRISTOFFERSON, P.C. 11491 SUNSET HILLS ROAD SUITE 340 RESTON, VA 20190			FELTEN, DANIEL S	
			ART UNIT	PAPER NUMBER
			3624	

DATE MAILED: 11/04/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/505,509	Applicant(s) GUPTA ET AL.	
	Examiner Daniel S. Felten	Art Unit 3624	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 August 2005.
 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
 5) ☐ Claim(s) _____ is/are allowed.
 6) ☒ Claim(s) 1-11 is/are rejected.
 7) ☐ Claim(s) _____ is/are objected to.
 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some * c) ☐ None of:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
 * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Receipt of the Appeals Brief filed August 18, 2005 is acknowledged. Upon further consideration of the arguments regarding the use of Friedland (US 6,449,601). The case is now REOPENED to address issues in the Appeal brief.

Response to Arguments

2. Applicant's arguments with respect to claims 1-11 have been considered but are moot in view of the new ground(s) of rejection.

In regards to applicant's assertion that Friedland does not show a distributed processing auction, the examiner has provided a secondary reference, Hultgren, which discloses a distribution system and addresses applicants concerns with Friedland to include a competition of bids and processing bids. Also reasoning is given below for the combination of the primary and secondary references which teaches processing one or more bids across one or more nodes.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Friedland (US 6,449,601) in view of Hultgren (US 6,134,589)

Re claim 1:

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Friedland discloses a method for processing auction traffic using one or more servers at a plurality of nodes in a distributed processing system (see Friedland, fig. 3, Abstract) using a current local winner determination method at each of the nodes to identify and candidate winning bids (see Friedland, col. 13, ll. 63 to col. 14, ll. 43), and using a current global (remote) winner determination method to determine from the candidate winning bids from each of nodes a current set of winners (see Friedland, col. 3, ll. 10-67).

Friedland fails to disclose identifying loser bids. However, it would be obvious to an artisan at the time of the invention to recognize that the determination of winning bids (or winning candidates) would include a determination of which bids are losers and should be filtered out.

Thus it would have been obvious for an artisan at the time of the invention to identify loser bids within the bidding filter.

Friedland also fails to disclose a distributed processing network per se. Hultgren discloses a distributed processing network between an origination node and a destination node which considers bids via a bid processor (220)(see Hultgren, col. 4, lines 10+). It would have been obvious to integrate the system of Hultgren into Friedland because both systems are provided on the Internet (which is a distributed network of servers and nodes) and thus an artisan would seek to expand the number of servers used by Friedland so as to broaden the level of participation in the live auction. Thus such a modification would be considered an obvious expedient well within the ability of an artisan of ordinary skill in the art.

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Re claim 2:

Friedland discloses wherein the auction is an open-cry auction (see Friedland, Abstract fig. 3, col. 7, 11. 61 +).

Re claim 3:

Friedland discloses wherein the current local winner determination method comprises the steps of receiving a new bid (v, q) at a node, where v denotes the price per unit and q denotes the quantity desired (see Friedland, col.5, 11. 13+, col. 1, 11. 60+), checking to see if the new bid ranks in the top (N/q) bids, in terms of price/unit bid value, amongst all the bids asking for quantity q whose information is available to this process, where $(x)_J$ stands for the greatest integer less than or equal to x (see Friedland, col. 2, 11. 12+);

taking the new bid along with the set of $(N/q)_J$ bids that have been processed and determining a new set of top (N/q) bids (see Friedland, col. 17, 11. 3+), determining if (v, q) is in the top $(N/q)_J$ bids and, if it is not, and declaring it a loser bid, but if so, declaring it a candidate bid (see Friedland, col. 17, 11. 3+).

Re claim 4:

Friedland further discloses comprising the steps of holding the candidate bid at the node for a time, T ; and if by time T , through an arrival of another bid, a candidate bid loses its position amongst the top (N/q) highest bids, declaring the bid a loser bid (see Friedland, col. 17, 11. 3 to col. 18, 11. 2),

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otherwise, declaring the bid a winner candidate and making the bid accessible for further processing by the current global winner determination method (see Friedland, col. 17, 11.3 to col. 18, 11.2).

Re claim 5:

Friedland discloses wherein the current global winner determination method comprises the steps of receiving new candidate winning bid from a node $\text{bid}_{tv,q}$ (see Friedland, col. 3, 11.23-29-, and col. 17, 11.3 to col. 18, 11.2), taking the candidate winning bid along with the set of all bids that have been processed and determines a new set of winners (see Friedland, col. 3, 11.23-29., and col. 17, 11.3 to col. 18, 11.2),

determining whether the new candidate $\text{bid}_{tv,q}$ is a winner (see Friedland, col. 3, 11.23-29-, and col. 17, 11.3 to col. 18, 11.2)-, and notifying the bidder of $\text{bid}_{tv,q}$ as to whether they are a winner (see Friedland, col. 3, 11.23-29-, and col. 17, 11.3 to col. 18, 11.2).

Re claim 6:

Friedland discloses wherein the current local winner determination method comprises the steps of receiving a new $\text{bid}_{tv,q}$ at a node, where v denotes the price per unit and q denotes the quantity desired (see Friedland, col. 5, 11.13+, and col. 1, 11.60+),

considering a set of bids using a set of pre-specified auction rules and selecting winners for auctioning $N+x$ copies of the item on sale; and determination whether the $\text{bid}_{tv,q}$ is a candidate winner bid (see col. 2, 11.12+, col. 13, 11.23+).

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Re claim 7:

Friedland discloses wherein the current global winner determination method comprises the steps of:

receiving new candidate winning bid from a node $\text{bid}_{tv,q}$ (see col. 3, 11. 10-67),
taking the candidate winning bid along with the set of all bids that have been processed and
determines a new set of winners (see col. 3, 11. 10-67),

determining whether the new candidate $\text{bid}_{tv,q}$ is a winner (see col. 3, 11. 10-67),
and notifying the bidder of $\text{bid}_{tv,q}$ as to whether they are a winner (see col. 3, 11. 10-67).

Re claim 8:

The notoriously old and well known Descending auctions or "Reverse actions" are those in which bid price for an item decreases rather than increases for each round of bidding. Official notice is taken of descending auctions because an artisan at the time of the invention would have found that the employment of a descending auction would have been an obvious extension to the teaching of Friedland being an obvious alternative to high bid auctions and thus an obvious expedient well within the ordinary skill in the art.

Re claim 9:

Friedland wherein the current local winner determination method comprises the steps of receiving a bid (q) for processing, where q is the quantity desired at going price p (see Fried land , col. 2 , 11 . 1 2+-, and col. 3, 11. 23+),

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determining whether the bid is in the first (R/qJ) bids, asking for quantity q at price p , where (x) stands for the greatest integer less than or equal to x and R is a currently remaining quantity on auction (see Friedland, col. 2, 11. 12+, and col. 3, 11. 23+),

if the bid is in the first (R/qJ) bids, asking for quantity q at the going price p , then declaring the bid a candidate winner bid; and making the candidate winner bid available for further processing by the current global winner determination method (see Friedland, col. 2, 11. 12+, and col. 3, 11. 23+).

Re claim 10:

further comprising the steps of giving bids processed by the method a time stamp of arrival', and determining whether the time stamp, if it exists on the bid, is greater than or equal to the time stamp of any bid, asking for quantity q at going price p , that has been processed by the method in the past (see Friedland, col. 2, 11. 12+, and col. 3, 11. 23+).

Re claim 11:

Bidders submit multi-item bids and the bids may be indivisible (see Friedland, col. 8, 11. 10-50).

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Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daniel S. Felten whose telephone number is (571) 272-6742.

The examiner can normally be reached on Flex.

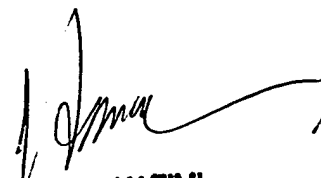
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vincent Millin can be reached on (571) 272-6747. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



DSF
October 27, 2005

Daniel S Felten
Examiner
Art Unit 3624



HANI M. KAZIMI
PRIMARY EXAMINER